

CHILDREN, EDUCATION AND FAMILIES POLICY DEVELOPMENT AND SCRUTINY COMMITTEE

Minutes of the meeting held at 7.00 pm on 22 November 2023

Present:

Councillor Kira Gabbert (Chairman)
Councillor Jonathan Andrews (Vice-Chairman)
Councillors Graeme Casey, Sophie Dunbar,
Simon Fawthrop, Hannah Gray, Colin Hitchins,
Ruth McGregor, Alexa Michael and Rebecca Wiffen

Shamilah Martin
Alice Kirby and Tommy Velvick (Part 1 only)

Also Present:

Councillor Kate Lymer, Portfolio Holder for Children,
Education and Families
Reverend Roger Bristow (observing)

26 APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTE MEMBERS

Apologies for absence were received from Councillors Robert Evans and Ryan Thomson and Councillors Simon Fawthrop and Ruth McGregor attended as their respective substitutes. Apologies for absence were also received from Rosie White.

Apologies for lateness were received from Reverend Roger Bristow.

27 DECLARATIONS OF INTEREST

Councillor Sophie Dunbar declared that she had a close family member in receipt of transport services and a Special Educational Needs-funded placement out of the Borough. She also declared that she was a Ward Councillor for Biggin Hill with respect to Items 8a/13a: Award of Contract for Capital Works at Oaklands Primary Academy.

28 QUESTIONS FROM COUNCILLORS AND MEMBERS OF THE PUBLIC ATTENDING THE MEETING

No questions were received.

29 MINUTES OF THE CHILDREN, EDUCATION & FAMILIES PDS COMMITTEE MEETING HELD ON 13 SEPTEMBER 2023

RESOLVED: That the minutes of the meeting held on 13 September 2023 be agreed and signed as a correct record.

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30 MATTERS OUTSTANDING AND FORWARD WORK PROGRAMME Report CSD23136

The report set out progress against outstanding actions from previous meetings and the forward work programme of the Committee.

A Member suggested that a future Deep Dive be undertaken on the first destinations of 16- and 18-year-old school leavers in the Borough, including those being educated at home and this was supported by the Committee.

RESOLVED: That the report be noted.

31 PORTFOLIO HOLDER UPDATE

The Portfolio Holder for Children, Education and Families provided an update to the Committee on her activities.

As Lead Member for Children, Education and Families, the Portfolio Holder continued to represent the Local Authority in a range of settings both locally and regionally and had recently visited Bromley's Early Years team to learn more about the support strategy overseeing the quality of 500+ Early Years Providers in Bromley. Ofsted had inspected Children's Services in November 2023 and the Portfolio Holder was pleased to advise that initial feedback had been positive with the official report due to be published on 12 January 2024. The inaugural Bromley SEND Stars Event had taken place in early November and had been a great success with over 90 nominations received for eight awards. Upcoming events included the official re-launch of the Streetwise Youth Centre on 24 November 2023 and Disability Pride in Bromley Town Centre on 25 November 2023 and Members were encouraged to attend both celebrations.

The Portfolio Holder introduced the Director of Children, Education and Families who made a statement regarding two rulings by the Local Government and Social Care Ombudsman in relation to the way that the Local Authority had applied the law in relation to children that were out of school for more than 15 days:

I am now setting out the challenges we have recently had from the Ombudsman.

On two recent occasions the Ombudsman has taken the view that we have not correctly adhered to our Section 19 duties in relation to providing suitable alternative education when children are out of school for more than 15 days. Having reviewed the challenge from the Ombudsman, it does appear that our own guidance is at fault and has been wrong for a number of years.

In essence we have been insisting on parents providing medical evidence before we provide alternative education outside of school. Guidance on how to apply the legislation makes it clear that it is reasonable to ask for medical

evidence, but crucially it cannot be insisted upon. The legislation goes further to state that the council has a duty to provide education where for medical reasons or otherwise, a child has missed 15 days of school. The broad nature of the term 'otherwise' means that the council's duty extends to support children unable to attend school regardless of whether medical evidence is available to that effect. As a result of this incorrect interpretation, the Ombudsman is insisting that we share this concern with members and provide confirmation that we have done so. On this basis can I suggest that we undertake the following actions;

- We highlight the concerns in the Portfolio Plan to show that this is something we have highlighted to this Committee, and that the Portfolio Holder, myself and the Director of Education will now track to ensure that the required changes are taken forward and embedded in practice, procedures and decision making;*
- We have amended our interpretation of the legislation so that it conforms with that set out by the Ombudsman; and,*
- We have already undertaken additional legal training undertaken by a barrister with staff so that all those involved in these decisions have a correct understanding of the legislation and that this is reflected in future practice.*

In response to questions from Members, the Director: Children, Education and Families clarified that going forward, the Local Authority's first priority would be to identify alternative education provision for affected children although medical evidence would continue to be sought, particularly in relation to identifying individual support and learning needs. The cost implication of the two rulings would include a remediation payment for each term the child was out of education. This payment level was set by the Ombudsman and further details on the total cost of the two rulings would be provided to Committee Members following the meeting. The Director of Education added that a number of local authorities had raised concerns regarding the Ombudsman's application of Section 19 duties, particularly as the number of children experiencing social and mental health needs affecting their engagement in education was increasing and in light of the difficulties with providing appropriate alternative provision without an assessment of the child or young person's medical needs. A Member queried whether the 15-day period was reset if a child or young person was able to attend school for a few hours and the Director of Education explained that the expectation of the Ombudsman was that every child and young person had an entitlement to a full-time education but that engaging with a small amount of provision would likely be viewed as a positive step towards re-integrating that child into full-time education.

In summation, the Chairman acknowledged that the Local Authority had changed its ways of working to reflect the rulings of the Ombudsman. The Chairman also led the Committee in thanking Officers for their hard work in preparing for and supporting the Ofsted Inspection of Children's Services.

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RESOLVED: That the update be noted.

**A CHILDREN, EDUCATION AND FAMILIES PORTFOLIO PLAN -
2023/24 Q2 UPDATE
Report CEF23052**

The report presented the Children, Education and Families Portfolio Plan Quarter 2 update for the 2023/24 financial year.

In response to a question from a Member, the Head of Service Strategy & Performance (Children & Education) clarified that as of 30 September 2023, 67% of eligible children were accessing funded early education and childcare places for 2-year-olds. Whilst this was slightly below national performance, it compared well with other London Boroughs and extensive work would continue to be undertaken to engage eligible Bromley families with this offer. Another Member asked whether sufficient provision was in place if all eligible families decided to take up the offer and the Director of Education advised that whilst availability of places varied across the Borough, recent sufficiency works indicated that there were adequate places to meet anticipated demand. Another Member asked about Child and Adolescent Mental Health Services (CAMHS), and it was confirmed that there were no Looked After Children currently awaiting CAMHS assessments or interventions.

RESOLVED: That progress on actions associated with the Children, Education and Families Portfolio Plan be noted.

**32 PRE DECISION SCRUTINY OF DECISIONS FOR THE CHILDREN,
EDUCATION & FAMILIES PORTFOLIO HOLDER**

The Committee considered the following reports where the Children, Education and Families Portfolio Holder was recommended to take a decision:

**A BUDGET MONITORING 2023/24
Report CEF23055**

The report presented the budget monitoring position for the 2023/24 financial year which showed a projected overspend of £6,612,000 forecast on the controllable budget based on activity to 30 September 2023.

The Head of Children, Education and Families Finance outlined a number of factors contributing to the overspend including the increasing level of demand and delivery costs in a number of areas including Special Educational Needs and Disabilities (SEND) transport, special education provision and high needs placements in Children's Social Care. A Member stressed the importance of innovation in addressing these pressures, including expediting any existing proposals within the Transformation Programme that could help manage costs going forward. Another Member queried the escalation in the cost of high needs placements in Children's Social Care and was advised that

placements in this area were increasingly expensive as local authorities competed to secure the limited available places for a rising number of young people with specialist needs. The Director of Children, Education and Families confirmed that work was undertaken across all services to reduce costs and maximise efficiency. This included the recent optimization of SEND transport routes alongside the use of personal budgets and travel training which had helped mitigate a recent increase in demand as well as enabling a number of Bromley's children and young people to benefit from increased travel independence. Other workstreams included participation in a Pan London Vehicle to develop a secure children's home for London and forward-thinking recruitment practices to maximise the proportion of permanent Children's Social Care staff, including overseas recruitment.

Moving forward, a key focus would be placed on innovative practice across all services and could include looking at ways to increase the number of in-Borough placements for young people at risk of criminal or sexual exploitation and exploring the potential for the Local Authority to establish its own specialist facilities, such as children's homes where a viable business case could be made. A Member suggested that the possibility of establishing an in-house SEND Transport service be revisited in light of the recent increase in demand and inflationary costs.

RESOLVED: That the Portfolio Holder be recommended to:

- 1) Note the latest projected overspend of £6,612,000 forecast on the controllable budget based on information as at September 2023; and,**
- 2) Recommend the Council's Executive agree the release of funds from the Central Contingency as set out in Section 5 of Report CEF23055.**

**B CAPITAL PROGRAMME MONITORING - QUARTER 2 2023/24
Report CEF23056**

The report presented the capital monitoring position for Quarter 2 of the 2023/24 financial year and the revised capital programme for the four-year period 2023/24 to 2027/28.

The Chairman observed that £19,076k had been moved into the Portfolio's approved capital programme to fund capital works arising from the Operational Property Review for services that fell within the Children, Education and Families Portfolio.

RESOLVED: That the Portfolio Holder be recommended to note the current position in respect of capital expenditure and receipts following Quarter 2 of the 2023/24 financial year and the proposed revised capital programme for the four-year period 2023/24 to 2027/28 to be reported to the Council's Executive on 29 November 2023.

33 PRE DECISION SCRUTINY OF EXECUTIVE REPORTS

A AWARD OF CONTRACT FOR CAPITAL WORKS AT OAKLANDS PRIMARY ACADEMY PART 1 (PUBLIC) REPORT Report CEF23063A

The report sought approval from the Council's Executive to award a contract for the construction of classroom and ancillary accommodation at Oaklands Primary Academy for a new additionally resourced provision for children with Education Health and Care Plans.

The Head of Strategic Place Planning advised that this scheme was part of a wider expansion of specialist education places across the Borough and would provide 30 additional places for children with Education, Health and Care Plans in the Biggin Hill area.

RESOLVED: That the Council's Executive be recommended to agree the award of contract for capital works at Oaklands Primary Academy.

B CASTLECOMBE YOUTH CENTRE AND MOTTINGHAM COMMUNITY SUPPORT CENTRE Report CEF23064

The report sought approval from the Council's Executive to co-locate the Mottingham Community Support Centre with the Castlecombe Youth Centre and to proceed to procurement for the planned refurbishment of this site to make it fit for purpose for both services. The report was also considered by the Renewal, Recreation and Housing PDS Committee at its meeting on 15 November 2023 and the recommendations had been supported.

In discussion, Members expressed support for the proposed co-location. A Member noted that an additional community organisation had expressed interest in co-locating on the Castlecombe Youth Centre site and the Assistant Director: Culture and Regeneration confirmed that work was being undertaken to identify whether this would be feasible.

RESOLVED: That the Council's Executive be recommended to:

- 1) Agree to the relocation of the Mottingham Community Support Centre to be co-located with Castlecombe Youth Centre;**
- 2) Note that up to £1.153m of the Operational Property Review budget be used for the repair and remodelling works for Castlecombe Youth Centre to make the site fit for purpose for both services;**
- 3) Agree to proceed to procurement for the works contract at an estimated value of £1.038m as set out in paragraphs 3.18 to 3.21**

of Report HPR2023/064, with delegated authority to the Director: Housing, Planning, Property and Regeneration to determine the detailed procurement strategy; and,

- 4) Delegate authority to the Director of Corporate Services and Governance to enter into and manage legal matters relating to these works to allow works to progress.**

34 POLICY DEVELOPMENT AND OTHER ITEMS

A YOUTH JUSTICE SERVICE ANNUAL UPDATE Report CEF23060

The report provided the annual update on the work of the Bromley Youth Justice Service, including performance and work to address offending.

In response to a question from a Member, the Head of Youth Justice and Youth Services confirmed that the Youth Justice Service undertook a range of work with the parents and carers of service users including a parenting assessment and the provision of additional support where needed.

RESOLVED: That the annual update be noted.

B BROMLEY SAFEGUARDING CHILDREN PARTNERSHIP ANNUAL REPORT 2022/23 Report CEF23057

The report set out the activity of Bromley Safeguarding Children's Partnership (BSCP) for the 2022/23 financial year. It was a statutory requirement for safeguarding partnerships to publish an annual report under *Working Together 2018*. In line with statutory guidance and best practice, the report would also be submitted to the Chief Executive; the Lead Member and Director for Children's Services; the Chairs of the Health and Wellbeing Board and the Safer Bromley Partnership Board; the Independent Chair of the Bromley Safeguarding Adults Board; Bromley Youth Council; the Mayor's Office for Policing and Crime; the Child Safeguarding Practice Review Panel and the *What Works Centre for Children's Social Care*.

The Chairman led Members in welcoming what was a comprehensive report. A Member queried whether larger reports should be provided to the Committee in electronic format in future and this would be considered as part of wider conversations around the Local Authority's move towards paper-light working.

RESOLVED: That the annual report be noted, including the Bromley Safeguarding Children Partnership's focus on coordinating the safeguarding work of agencies and ensuring this work is effective.

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**C INDEPENDENT REVIEWING OFFICER ANNUAL REPORT
2022/23
Report CEF23058**

The report set out the activity of the Independent Reviewing Service for the 2022/23 financial year and evaluated the effectiveness of the Independent Reviewing Officer Service in ensuring the Local Authority discharged its statutory responsibilities as a Corporate Parent towards Looked After Children.

In response to a question from a Member, the Head of Service Quality Improvement confirmed that Independent Reviewing Officers primarily focused on ensuring the Local Authority discharged its statutory responsibilities as a Corporate Parent towards Looked After Children but also served as the Chairpersons of Child Protection Conferences and contributed to quality assurance work within Children's Social Care.

RESOLVED: That the progress and actions of the Independent Reviewing Officers in discharging their statutory duties and contributing to the aims of the Corporate Parenting Strategy for the 2022/23 financial year be noted.

**D LOCAL AUTHORITY DESIGNATED OFFICER ANNUAL REPORT
2022/23
Report CEF23059**

The report provided an overview of the activity of the Local Authority Designated Officer (LADO) for the 2022/23 financial year in managing allegations against people who worked or volunteered with children and were therefore in a position of trust.

The Head of Service Quality Improvement outlined a range of work that had been undertaken over the past year to increase the awareness of the LADO service including a twilight training programme for the Early Years Sector which had increased referrals from this area. Going forward, it was planned to engage more with the voluntary sector and faith groups working with children and this was anticipated to provide assurance for both children and those who worked or volunteered with children moving forward. The Chairman queried the number of complaints outstanding for significant periods and the Head of Service Quality Improvement explained that the majority of long-term ongoing cases were more complicated and often had police involvement for which additional time was needed to investigate and prepare cases for consideration by the Crown Prosecution Service. In considering the reasons for referral for complex cases, the Vice-Chairman observed that some complaints could fall within two or more Department for Education data collation descriptors, and it was requested that secondary reasons for referrals be captured in future data collection where appropriate.

RESOLVED: That the annual update be noted.

**E CHILDREN, EDUCATION AND FAMILIES RISK REGISTER -
UPDATE QUARTER 2 - 2023/2024
Report CEF23054**

The report set out the Children, Education and Families Risk Register update for Quarter 2 of the 2023/24 financial year.

The Chairman underlined that the highest rated risk within the Risk Register was 'Failure to delivery Children's Services Financial Strategy'. This had been discussed at length earlier in the meeting and would continue to be an area of key focus for the Committee alongside the other identified risks. A Member suggested that consideration be given to how the Risk Register was presented to the Committee as some committees alternated between considering a detailed report on the highest rated risks and the full contracts register.

RESOLVED: That the current Children, Education and Families Risk Register and the existing controls in place to mitigate the risks be noted.

**F PERFORMANCE REPORTING - CHILDREN'S SCRUTINY
DATASET PART 1 (PUBLIC) REPORT
Report CEF23053A**

The report presented a regular update on the performance of services for children across a suite of performance measures.

The Vice-Chairman welcomed the continued improvement in performance for the number of Education, Health and Care Plans issued within the statutory 20-week timescale. The Assistant Director: Strategy, Performance and Corporate Transformation advised that whilst overall performance for the 2023 calendar year was below expectations, this was improving month-on-month and reflected the excellent work of the team in clearing the backlog and improving performance as well as the increasing numbers of children and young people able to access services via the graduated offer.

RESOLVED: That the September 2023 outturn of key performance indicators and associated management commentary be noted.

**G CONTRACTS REGISTER PART 1 (PUBLIC) REPORT
Report CEF23062A**

The Committee considered a report setting out the Contract Register for the Children, Education and Families Portfolio.

The Commissioning Support Officer advised the Committee that as of the current date, all contracts were RAG-rated as 'Green'. The Chairman was pleased to note that a commentary had been included in the Part 2 (Exempt) Contracts Register to provide further information regarding specific contracts

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and requested that a short commentary also be included in the Part 1 (Public) report where possible.

RESOLVED: That Members' comments on the Contracts Register as at 30 August 2023 be noted.

35 CHILDREN, EDUCATION AND FAMILIES INFORMATION ITEMS

The items comprised:

- Annual Complaints Report and Local Government and Social Care Ombudsman Letter 2022/23

RESOLVED: That Information Items be noted.

36 LOCAL GOVERNMENT ACT 1972 AS AMENDED BY THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) (VARIATION) ORDER 2006, AND THE FREEDOM OF INFORMATION ACT 2000

RESOLVED that the press and public be excluded during consideration of the items of business listed below as it was likely in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the press and public were present, there would be disclosure to them of exempt information.

**The following summaries
refer to matters involving exempt information**

37 EXEMPT MINUTES OF THE CHILDREN, EDUCATION & FAMILIES PDS COMMITTEE MEETING HELD ON 13 SEPTEMBER 2023

The Part 2 (Exempt) minutes of the meeting held on 13 September 2023 were agreed and signed as a correct record.

38 PRE DECISION SCRUTINY OF PART 2 (EXEMPT) EXECUTIVE REPORTS

A AWARD OF CONTRACT FOR CAPITAL WORKS AT OAKLANDS PRIMARY ACADEMY PART 2 (EXEMPT) REPORT

The Committee considered a Part 2 (Exempt) report on the award of contract for capital works at Oaklands Primary Academy.

39 POLICY DEVELOPMENT AND OTHER ITEMS PART 2 (EXEMPT)

**A PERFORMANCE REPORTING - CHILDREN'S SCRUTINY
DATASET PART 2 (EXEMPT) REPORT**

The Committee considered a report setting out Part 2 (Exempt) aspects of performance reporting against the Children's Scrutiny Dataset.

B CONTRACTS REGISTER PART 2 (EXEMPT) REPORT

The Committee considered a report setting out Part 2 (Exempt) aspects of the Contract Register for the Children, Education and Families Portfolio.

The Meeting ended at 8.52 pm

Chairman